IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.34226 of 2006
GAUTAM MUKHERJEE & ANR
Versus
STATE OF BIHAR & ANR

Cr.Misc. No.34326 of 2006
GAUTAM MUKHERJEE & ANR
Versus
STATE OF BIHAR & ANR

Cr.Misc. No.34334 of 2006
GAUTAM MUKHERJEE & ANR
Versus
STATE OF BIHAR & ANR

Cr.Misc. No.34331 of 2006
GAUTAM MUKHERJEE & ANR
Versus
STATE OF BIHAR & ANR

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For the petitioners in all cases : Mr. Arun Kumar Singh No. 3
For the State : Mr. Jharkhandi Upadhaya, A.P.P.
For O.P. No. 2 : None

ORDER

Cr.Misc. No.34226 of 2006 has been preferred by the petitioners for quashing of order dated 2.7.2005 passed by the learned Chief Judicial Magistrate, Patna in Complaint Case No. 1752 (M) of 2005, wherein cognizance has been taken for offences under sections 406, 409, 420 I.P.C. and Section 138 N.I.Act. Cr.Misc. No.34326 of 2006 has been preferred by the petitioners for quashing of order dated 10.6.2005 passed by the

learned Chief Judicial Magistrate, Patna in Complaint Case No. 1478 (M) of 2005, whereby cognizance has been taken under similar sections. Cr.Misc. No.34334 of 2006 has been preferred by the petitioners for quashing of order dated 21.6.2005 passed by the learned Chief Judicial Magistrate, Patna in Complaint Case No. 1593 (M) of 2005, whereby cognizance has been taken under the same sections and Cr.Misc. No.34331 of 2006 has been preferred by the petitioners for quashing of order dated 21.12.2004 passed by the learned Chief Judicial Magistrate, Patna in Complaint Case No. 3462 (M) of 2004, whereby cognizance has been taken under sections 403, 406, 409, 420, 425, 379, 504, 120B I.P.C.

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All these cases have been taken up together since the parties to the litigation are the same and the nature of offences also are the same and having been heard together are being disposed of by this common order.

On perusal of the complaint petitions of each of the cases it appears that the petitioners took term loans of various amounts from O.P. No. 2 for running industries. It further appears that in course of repayment of loan the petitioners issued cheques in favour of O.P. No. 2 which bounced due to insufficient funds in account of the petitioners and this led O.P.No. 2 to file the complaint cases before the learned Chief

Judicial Magistrate, Patna and after holding an inquiry under section 202 Cr.P.C. in each of the cases cognizance was taken and the impugned orders were passed in the respective cases.

The learned counsel for the petitioners has referred to Annexures 2 and 2/1 in all the 4 cases which are two letters written by O.P. No. 2 to its lawyer Sri Amit Srivastava, requesting him to withdraw the cases since M/s Fusion Engineers Product Limited and its Directors (Petitioners) had paid the term loan under O.T.S. 2004 along with interest and legal charges and no dues certificates had been issued by O.P. No. 2. The subject matter of the letters were the withdrawal of complaint case nos. 1478 of 2005, 1593 of 2005, 1725 of 2005 and 3462 of 2005.

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Notices were issued to O.P. No. 2 in all the 4 cases and although they were validly served no one has cared to appear to contest this application, but he chose not to appear.

On perusal of Annexures 2 and 2/1 it is clear that the entire amount of loan including interest and other legal charges have already been paid by the petitioners to O.P. No. 2 and there being no dues out standing and no dues certificate were issued in all 4 cases . Since no dues remained with the petitioners continuance of the criminal proceedings in all the 4 cases would be an exercise in futility and an abuse of the

process of the Court.

Due regard being had to the facts and circumstances all these 4 applications are allowed and impugned orders in each of these cases are hereby quashed.

(Abhijit Sinha, J.)

The Patna High Court
Dated the 8th August, 2008
Sanjay Pd/ A.F.R.

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